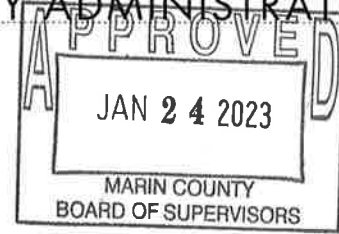


OFFICE OF THE
COUNTY ADMINISTRATOR



January 24, 2023

Matthew H. Hymel
COUNTY ADMINISTRATOR

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

SUBJECT: FY 2023-24 through FY 2025-26 Agreement for Animal Control Services with Marin Humane

Dear Board Members:

RECOMMENDATION:

- 1) Authorize President to execute three-year agreement with Marin Humane in the total amount of \$12,358,096 (over three years) to provide animal control services on behalf of all Marin County jurisdictions through June 30, 2026

Marin County Civic Center
3501 Civic Center Drive
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CRS Dial 711
www.marincounty.org/cao

SUMMARY:

Marin County and its cities and towns provide animal control services through a joint powers agreement. The cost of services is shared 30 percent by the County, with the remaining 70 percent apportioned among the member cities and towns. Marin County contracts with Marin Humane (MH) to provide these services on behalf of the member jurisdictions. The current two-year agreement expires June 30, 2023.

Management of the Contract has been delegated to the Marin General Services Authority (MGSA) since 2015, which facilitates negotiation of a new Contract among the parties. The Negotiating Team, consisting of County and Marin Managers Association (MMA) representatives, met several times since September 2022 to negotiate a new agreement, as well as to discuss any changes to the Animal Control Ordinance, any fee changes, and other terms, including funding of new radios as a result of the Marin Emergency Radio Authority's (MERA) change of technology. The Negotiating Team also visited the MH facility to view operations, assess capital assets, and ask questions. The Team included representatives from the County Administrator's Office, the Executive Officer of Marin General Services Authority, and the Managers of the towns of Tiburon and Ross.

Agreement for Animal Services with Marin Humane

On behalf of the Negotiating team, staff recommends similar contract language to previous years. A key consideration of these negotiations was the lack of any cost of living contract increase during the last two years. The recommended agreement contains the following key changes and recommendations:

Term - A three-year agreement for FY 2023-24 through FY 2025-26.

Annual Cost Increase – The attached contract provides increases in the following percentages: 8.0 percent for FY 2023-24; 5.0 percent for FY 2024-25; and 2.0 percent for FY 2025-26.

CAZ

No Dog License Fee Changes – MH promotes and collects dog license fees. No changes in fees are recommended at this time.

Marin Emergency Radio Authority (MERA) – A key element of this contract relates to the need to upgrade MH’s vehicle and handheld radios due to the Countywide changeover to a new radio band. All jurisdictions are dealing with the same changeover and associated capital cost. Prior contracts with MH have contained a reopener if MERA capital costs were required during the term of the agreement. In this contract, the jurisdictions will pay for single band radios and their installation based on a recent vendor quote. MH will pay the incremental increase necessary to purchase dual-band radios for enhanced operational flexibility. MH will finance the purchase of the radios to be repaid in the first month of the new contract. The amount to be paid by the member jurisdictions is \$164,745.22.

Animal Control Ordinance, Chapter 8.04 of Title 8 – After discussions with the Negotiations Team and MH, no changes to the existing Animal Control Ordinance are recommended.

FISCAL IMPACT:

The proposed three-year agreement will result in annual costs of \$3,959,659 for FY 2023-24; \$4,157,642 for FY 2024-25; and \$4,240,795 for FY 2025-26 for the three-year term from July 1, 2023 – June 30, 2026 (total \$12,358,096). In addition, \$164,745.22 will be paid as a one-time contribution in FY 2023-24.

The County is responsible for approximately 30 percent of these costs (or \$3,707,428). Funds will be included in the FY 2023-24 proposed budget to cover total costs, with member agencies reimbursing County for their 70 percent share of costs. Marin City and Town Managers were presented a verbal summary of the tentative contract at its meeting on October 20, 2022; no concerns were raised.

Please let me know if you have any questions or concerns.

REVIEWED BY:	<input checked="" type="checkbox"/>	County Administrator	<input type="checkbox"/>	N/A
	<input type="checkbox"/>	Department of Finance	<input checked="" type="checkbox"/>	N/A
	<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
	<input type="checkbox"/>	Human Resources	<input checked="" type="checkbox"/>	N/A

Respectfully Submitted



Erica Hellmold
Administrative Services Officer

Reviewed By,



Daniel Eilerman
Assistant County Administrator

ATTACHMENTS:

- Attach G1** – Proposed Agreement for Animal Control Services for FY 2023-24, FY 2024-25, and FY 2025-26

cc: City/Town Managers
Marin Humane
Marin General Services Authority

AGREEMENT FOR ANIMAL SERVICES

THIS AGREEMENT, made and entered into this January 10, 2023, by and between the **COUNTY OF MARIN**, a political subdivision of the State of California (hereinafter referred to as "COUNTY") and **MARIN HUMANE** also known as Marin Humane Society (hereinafter referred to as "CONTRACTOR".)


WITNESSETH:

In consideration of the mutual promises set out below, CONTRACTOR and COUNTY agree as follows:

1. (A) The services to be performed, (B) the time within which said services are to be performed, (C) the amount of compensation and (D) the schedule for payment of such compensation shall be as specified in Exhibit "A."
2. **ADDITIONAL PROVISIONS.** Additional provisions for this Agreement are set forth in Exhibit "B."
3. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit "C" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.
4. **DESIGNATED REPRESENTATIVES.** The County Administrator is the representative of the COUNTY and will administer this Agreement for the COUNTY. Marin Humane's Chief Executive Officer/President is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.
5. **EXHIBITS.** All Exhibits referred to herein are attached hereto and by this reference incorporated herein. Exhibits include:
 - Exhibit "A" - Services and Payment
 - Exhibit "B" - Additional Provisions
 - Exhibit "C" - General Provisions
6. **AGREEMENT DATE.** The Agreement Date is effective July 1, 2023 – June 30, 2026.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

COUNTY OF MARIN ("COUNTY")

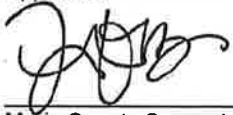

 By: _____
 Stephanie Moulton-Peters, President,
 Board of Supervisors

MARIN HUMANE ("CONTRACTOR")

DocuSigned by:

 3C06967AD8ED488...
 Chief Executive Officer/President Nancy McKenney

Approved as to Form:



 Marin County Counsel
 Jenna Brady, Chief Deputy County Counsel

EXHIBIT "A"

A.1. SCOPE OF SERVICES AND DUTIES.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR'S duties include, but are not limited to the following:

CONTRACTOR shall provide to COUNTY and the Cities/Towns party to the Joint Powers Agreement, dated 5/22/79 and modified on 12/4/90, the following services and facilities:

1. Animal Services Authorities:

CONTRACTOR shall provide field enforcement and shelter services in accordance with the terms and conditions of this Agreement and pursuant to the provisions of Chapters 8.04 through 8.12 of the Marin County Code, similar provisions of ordinances of joint powers authority members and all provisions of law relating to animal abuse and animal control and shelter services of the State of California. Such enforcement specifically includes authority to appoint animal services officers pursuant to provisions of County Code and State law, powers of arrest, the obligation to carry out all lawful orders of the Marin County Health Officer in the performance of duties specified in Sections 2606.0, 2606.2, 2606.4 and 2612.1 of Title 17 of the California Administrative Code, and the obligation to provide adequate instruction, training and supervision of all animal services officers.

2. Dog Licensing:

- a.) CONTRACTOR shall be responsible for dog licensing, and will work to maximize compliance through use of computerized records, rabies reports from veterinarians, and coordination of license sales at the shelter and at other locations. CONTRACTOR will provide for enforcement of the dog licensing provisions of the Marin County Code and similar provisions of ordinances of joint powers authority members, including the ordering and sale of licenses and tags.
- b.) CONTRACTOR shall administer a dog licensing program including, but not limited to ordering tags, developing paperwork, sales sites, sponsor rabies clinics (including at least one "at cost" clinic annually), data processing, mailing, renewals, problem solving, and enforcement.
- c.) CONTRACTOR shall administer a dog licensing enforcement program that includes conducting at least one license amnesty effort per contract year, and other efforts that may be mutually agreed upon.
- d.) CONTRACTOR shall not release any impounded dog to its guardian unless it is licensed and microchipped as required by law. CONTRACTOR shall maintain and make available to COUNTY a record of all licenses sold and fees collected. License records shall be available to the members of the Animal Services JPA at the COUNTY'S request.

3. Contract Animal Services:

- a.) CONTRACTOR shall provide a minimum of 32 animal services officer staff hours covering the County during each 24-hour period, five (5) days per week. Weekends and major holidays will be covered by 24 animal services officer hours during each 24-hour period on Saturdays and Sundays. Non-urgent staff phone coverage will be provided consistent with Contractor's standard operating hours of Tuesday through Sunday.
- b.) CONTRACTOR shall pick up dead wildlife, excluding marine mammals, seven (7) days a week, on public property at no fee to the County and Cities/Towns, and on private property subject to the fee adopted by the County.
- c.) CONTRACTOR shall enforce the provisions of potentially dangerous and vicious dog codes pursuant to the ordinances, assist the Office of the District Attorney for resolution and/or prosecution of alleged violations, and CONTRACTOR shall assist the County Counsel's office on potentially dangerous and vicious dog appeals.
- d.) CONTRACTOR shall investigate complaints, (excluding barking dogs and other animal noise complaints) including those regarding potentially dangerous animals or vicious dogs.
- e.) CONTRACTOR shall act as agents for the County Health Department for the purposes of quarantine of biting animals, as well as those animals suspected of having contact with potentially rabid animals, and the enforcement

of State statutes, State Regulations and County guidelines relating to rabies control, including State mandated rabies clinics.

- f.) CONTRACTOR shall participate in a collaborative problem-solving process with the County (on behalf of joint powers authority members) to include Marin County Public Health, and any other key stakeholders to ensure ongoing testing of animals suspected of rabies infection.
- g.) CONTRACTOR shall conduct patrols for stray dogs in all areas of the County and Cities/Towns on an ongoing basis for the purpose of enforcing leash and control laws where in effect. Patrol time shall be a minimum average of 75 hours per month (900) hours per year.
- h.) CONTRACTOR shall obtain and maintain equipment and establish procedures to receive and respond to, as required, all animal-related calls countywide, 24 hours a day, seven days a week.
- i.) CONTRACTOR shall pick up stray dogs, confined cats, and other animals, as appropriate; and impound animals, or return them home and issue citations, as appropriate.
- j.) Whenever possible, impounded animals shall be returned to their guardians in lieu of impounding at the shelter.
- k.) CONTRACTOR shall ensure public safety (for both people and animals) through a variety of efforts, including supportive services for long term positive outcomes.
- l.) CONTRACTOR shall investigate livestock depredation and wildlife harassment.
- m.) CONTRACTOR shall investigate cases of animals in distress which includes suspected animal cruelty and neglect cases.
- n.) CONTRACTOR shall inspect and permit, subject to County ordinance provisions, all Commercial Animal Establishments and Exhibits.
- o.) CONTRACTOR shall inspect and permit, subject to County ordinance provisions, applications for Dog Hobbyist and Ranch Dog Permits.
- p.) CONTRACTOR shall euthanize or transport suitable sick or injured wildlife patients to a licensed wildlife rehabilitation facility.
- q.) CONTRACTOR shall assist the public with wildlife coexistence strategies.
- r.) CONTRACTOR shall provide joint powers authority impoundment services to include receiving unwanted animals, the impounding, housing, redemption or other rehoming efforts, care and treatment (including appropriate veterinary and behavioral care), euthanasia, and disposal of animals. CONTRACTOR shall shelter and care for all stray and unwanted animals 24-hours a day, seven (7) days a week. CONTRACTOR shall provide to members of the Animal Services JPA the State-mandated programs in effect at the time of this Agreement. For the purposes of this Agreement, animals held beyond the time frames as outlined by State law, County or City/Town ordinance, and legitimate animal services purposes, shall be the financial responsibility of CONTRACTOR.
- s.) CONTRACTOR shall also maintain, if requested, records of any mandated services sufficient to allow COUNTY, on behalf of the joint powers authority, to make a claim for any State mandated costs.
- t.) CONTRACTOR shall treat all animals that can "reasonably" be rehabilitated, and euthanize or transfer out all untreatable animals when and if appropriate.
- u.) CONTRACTOR shall dispose of dead animals (excluding marine mammals and large livestock) by cremation or rendering.
- v.) CONTRACTOR shall maintain records and conduct searches for the purposes of reuniting lost pets with their guardians. Other efforts such as posting flyers, and listing on social media will be conducted when appropriate.
- w.) CONTRACTOR shall redeem stray animals and collect all fees. In some situations, CONTRACTOR has the discretion to waive fees when appropriate.

- x.) CONTRACTOR shall sterilize (by spaying and neutering) all cats/kittens and dogs/puppies prior to adoption.
- y.) CONTRACTOR shall provide County with annual calendar year animal activity and field service call statistics/reports and more frequently as requested.
- z.) CONTRACTOR shall respond to citizen complaints about animal services.
- aa.) CONTRACTOR shall be designated by the County Office of Emergency Services as the lead agency to provide and coordinate animal services disaster response during declared disasters for Marin County and all JPA Cities/Towns. Animal Services shall be considered an "essential service" during emergencies.
- bb.) CONTRACTOR shall provide for administrative hearings pursuant to Penal Code section 597.1.
- cc.) CONTRACTOR shall provide requested animal rescue services, including certain technical rescue services requiring specialized training.
- dd.) CONTRACTOR shall respond to calls immediately upon receipt of call, whenever possible and within eight (8) hours in general order of priority as follows:
 - i. Situations endangering human life safety
 - ii. Situations endangering domestic animal safety
 - iii. Emergency response requests from law enforcement
 - iv. Sick or injured domestic animals
 - v. Sick or injured wildlife
- ee.) CONTRACTOR shall respond to calls within eight (8) hours from receipt of call, and in general order of priority as follows:
 - i. Non-aggressive dogs running at large on school grounds.
 - ii. Trapped animals (in humane traps).
- ff.) CONTRACTOR shall respond to calls within twenty-four (24) hours:
 - i. Confined animals as deemed appropriate to pick up.
 - ii. Respond to animal bites to humans and potential rabies exposure reports.
- gg.) CONTRACTOR shall respond to calls within forty-eight (48) hours to:
 - i. Pick up dead animals, excluding marine mammals, subject to County adopted fee when applicable (private property).
 - ii. Pick up dead wildlife on public property.
 - iii. Owner surrendered animals subject to County adopted fee.
 - iv. Complaint patrols focused on specific neighborhood problem areas that have generated citizen complaints. Patrols to be conducted for at least thirty (30) days from the date of the complaint, with a minimum of three (3) patrols per month in each complaint area.
- hh.) CONTRACTOR shall propose any administrative regulation for adoption to the County and the Cities and Towns who are participants in the Joint Powers Agreement regarding Animal Services. Additional proposed administrative regulations shall be timely submitted by CONTRACTOR to governmental entities for adoption or ratification as new procedures and practices are developed furthering the enforcement activities undertaken on behalf of County or City/Town ordinances and State law.

The above roster of services is not intended to be exhaustive or exclude performance of any additional services expressly described in or otherwise necessary or implied by the regulatory scheme set forth in the Marin County Code.

4. Contractor Priorities:

CONTRACTOR shall respond, as CONTRACTOR'S highest priority, to all emergency calls. For the purpose of this subsection, "emergency call" means:

- i. Animals/situations endangering human life or safety in conjunction with the appropriate law enforcement agency or agencies.

- ii. Sick or injured animals.
- iii. Situations threatening animal life or safety.
- iv. Requests by law enforcement agencies.
- v. Protective custody/emergency animal boarding (as a result of arrests, hospitalizations, disasters, etc.) requests.

5. State Mandated Injured Animal Programs:

CONTRACTOR will administer and absorb the costs of the State-mandated County sick and injured animal program.

6. Fee Collection Services:

Upon redemption of an animal by its guardian, the CONTRACTOR shall collect all impound, board, license, herding, permit, veterinary fees, and any other contract related fees as assessed by County or City/Town ordinance and State law.

7. Maintenance of Records:

CONTRACTOR shall maintain records of each impounded animal, including a description of the animal, date of receipt, manner of disposal, and fees or charges paid. These records shall be available to JPA agencies by request of the County.

8. Identification of Dead Pets:

CONTRACTOR shall hold the remains of any dead pets with identification for up to 24-hours.

9. New State Mandates:

CONTRACTOR will participate in good faith negotiations to implement new state animal services mandated programs enacted during the time of this Agreement.

10. Discontinued State Mandated Animal Services:

Upon County's request, CONTRACTOR will participate in good faith negotiations to eliminate any state-mandated programs discontinued by California State law during the term of this Agreement.

A.2. TIME SERVICES RENDERED

Services will be provided from July 1, 2023 through June 30, 2026.

A.3. MANNER SERVICES ARE TO BE PERFORMED

CONTRACTOR, (including CONTRACTOR'S agents, servants and employees) is not an agent or employee of the County of Marin, or any of the members of the Animal Services Joint Powers Authority which include the following cities: Belvedere, Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito, and Tiburon, but an independent contractor solely responsible for its acts, and this Agreement shall not be construed as an agreement for employment.

A.4. RESPONSIBILITIES OF THE COUNTY

1. Uniform Ordinance and Citation Authority:

COUNTY will encourage members of the Animal Services Joint Powers Authority to comply with the requirements of the joint powers authority to establish uniform animal services ordinances and citation authority in the incorporated city/towns and unincorporated areas.

2. Dispatching Services:

COUNTY shall provide dispatching services for CONTRACTOR through the Communications Division of the Sheriff's Department. Normal charges associated with this service will be waived. CONTRACTOR shall acquire the equipment necessary to participate in the Marin Emergency Radio Authority's (MERA) radio system. This contract contains a one-

time **\$164,745.22** payment to CONTRACTOR for purchase and installation of single-band radios to be paid in the first month of the contract. There will be no additional cost to the County for the term of this Agreement.

3. Duties of Health Officer:

Under Sections 2606.0, 2606.2, 2606.4, and 2612.1, Title 17, of the California Administrative Code, the Health Officer is required to provide a program of rabies control, including receiving reports of animal bites, isolation (quarantine) of rabid or suspected rabid animals, isolation (quarantine) of biting animals, laboratory examination of certain animals for rabies, quarantine of wounded animals that have been bitten by (or have had contact with) a known or suspected rabid animal, establish quarantine areas, and administration and enforcement of Section 121690, California Health and Safety Code. Section 121690 deals with licensing and vaccination procedures for dogs. Inasmuch as this Agreement provides that many aspects of investigation and enforcement shall be carried out by animal services officers employed by CONTRACTOR, the Health Officer shall provide written protocols and procedures to be followed by CONTRACTOR in carrying out activities related to rabies control.

4. Rabies Control:

As necessary, the County Health Officer shall provide to CONTRACTOR by March 1 of each year of this Agreement, updated written rabies guidelines relating to enforcement of rabies quarantine procedures that accurately reflect current Health Department practices.

A.5. PAYMENT

COUNTY shall pay CONTRACTOR as follows:

1. For Fiscal Year 2023-24 commencing on July 1, 2023 (8% increase from fiscal year 2022-23): \$3,959,659.
2. For Fiscal Year 2024-25 commencing on July 1, 2024 (5% increase from fiscal year 2023-24): \$4,157,642.
3. For Fiscal Year 2025-26 commencing on July 1, 2025 (2% increase from fiscal year 2024-2025): \$4,240,795.

In no event will costs to the County for the services to be provided herein exceed the maximum sum of \$12,358,096, including direct non-salary expenses.

2. Method of Payment and Agreed Per Diem.

COUNTY shall pay to CONTRACTOR 1/12 of the total annual contract amount, as specified in Section A.5, 1. a.) through c.) in 12 equal installments by the first day of each month. For purposes of determining amounts due if this Agreement is terminated before June 30 of the current year, a per diem amount shall be established by dividing the total annual contract payment by 365 days.

3. Payment of Fees to County.

All impoundment, board, trailering, herding, dead on arrival (DOA) pickups, quarantine, permit fees, and any potentially dangerous and vicious dog sanction fines received by CONTRACTOR, will be remitted by CONTRACTOR to the County Administrator no later than the 20th of the month following collection.

Dog licensing fees received by CONTRACTOR up to \$300,000 per fiscal year will be remitted by CONTRACTOR to the COUNTY; and 40% of any licensing fees received over \$300,000 per fiscal year will be remitted by CONTRACTOR to the County Administrator, no later than the 20th of the month following collection. Licensing fees not remitted by CONTRACTOR shall be used for either promotion of the licensing program or facilities maintenance and CONTRACTOR shall provide an annual communication to the MGSA Board on licensing fee use.

4. Use of Contract Revenues.

CONTRACTOR agrees that all funds paid by COUNTY pursuant to this Agreement will be used only to fulfill the terms of the contract.

5. Annual Audit.

An independent audit, by a Certified Public Accountant, will be supplied annually at no additional cost to the County.

6. Appropriations.

The County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Marin County Board of Supervisors, the State of California, or other third party. Should the funds not be appropriated, County may terminate this agreement with respect to those payments for succeeding fiscal years for which such funds are not appropriated. County will give Contractor one-hundred eighty (180) days written notice of such termination. All obligations of County to make payments after the termination date will cease and all obligations of CONTRACTOR to provide animal services pursuant to this Agreement shall cease.

Notice from COUNTY that this Agreement is terminated because funds have not been appropriated shall be given to CONTRACTOR at least one-hundred eighty (180) days prior to the start of the next succeeding fiscal year. In the event that COUNTY gives such notice of termination, the provisions of Exhibit "C," Paragraphs 12 (a) and (b), shall be effective with respect to termination of the Agreement, except that the two-year notice required by the initial paragraph of Paragraph 12 shall not be required, and termination of this Agreement shall be effective upon the last day of the then current fiscal year.

EXHIBIT "B"

ADDITIONAL PROVISIONS

A1. INDEPENDENT CONTRACTOR STATUS

It is specifically understood and agreed that CONTRACTOR is an independent contractor and is not subject to the direction and control of COUNTY, or any of the member Cities or Towns of the Joint Powers Agreement (herein after referred to as "governmental entities") except as to the final result. CONTRACTOR shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding and Social Security. CONTRACTOR may seek clarification from the COUNTY or affected local agency regarding the enforcement of the County, City and Town ordinances. CONTRACTOR or its sureties shall not employ legal counsel in connection with CONTRACTOR'S obligation to indemnify and defend the governmental entities that may have interests or clients with interests that are adverse to those of the governmental entities. Legal counsel charged with defending the interests of any of the Cities and/or the COUNTY in litigation associated with the performance of services under this Agreement shall, prior to representation, audit its records of existing or past clients to ascertain whether there is a legal conflict of interest. Should either party identify a potential conflict of interest, counsel shall either secure the necessary waivers, or, if a waiver from all affected parties cannot be secured, counsel charged with the defense of the Cities/Towns and/or the County shall excuse themselves and Marin Humane shall promptly secure new legal counsel who is free from a conflict of interest.

2. EXTENSION OF SERVICE

CONTRACTOR and COUNTY (on behalf of the Joint Powers Authority) agree to hold good faith negotiations to extend Marin Humane's provision of Animal Services following the expiration of this Agreement. If notice of termination is given as described in Section 12 of Exhibit C and extends the services beyond the original termination date of the contract, then San Francisco Bay Area CPI-U, as determined by the Department of Labor, Bureau of Labor Statistics will be used to determine the cost of the extended contract.

EXHIBIT "C"

GENERAL PROVISIONS

1. Acceptance by COUNTY of the work performed under this Agreement does not operate as a release of said CONTRACTOR from responsibility for the work performed. CONTRACTOR understands and agrees that the scope of the work to be performed under this Agreement can and shall be performed in a manner compatible with the standards of contractor's occupation or profession.
2. It is expressly understood that in the performances of the services herein, the CONTRACTOR, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of the COUNTY. This Agreement shall not be construed as an agreement for employment. CONTRACTOR shall be solely liable and responsible to pay all required taxes and other obligations, including but not limited to, withholding and Social Security.
3. CONTRACTOR shall provide COUNTY with timely advice of all significant developments arising during performance of its services hereunder, orally or in writing, as COUNTY deems appropriate. COUNTY'S standing request is for notification as soon as possible. If initial communications are made orally, COUNTY requests a confirming letter or e-mail thereafter.
4. CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.
5. It is recognized by the parties hereto that a substantial inducement to COUNTY for entering into this Agreement was and is the reputation and competence of CONTRACTOR. Neither this Agreement nor any interest therein may be assigned by CONTRACTOR without prior written approval of COUNTY and this Agreement contemplates the services of CONTRACTOR as the primary provider of the services called for to be performed. Except as otherwise provided in this section, CONTRACTOR shall, with the exception of veterinary services, disposal services and disaster mutual aid, not subcontract any portion of the performance contemplated and provided for herein without prior written approval of COUNTY. Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of CONTRACTOR, as may be allowed by this Agreement (hereinafter referred to as the "Secondary Parties"), shall comply with each term and condition of this Agreement. Furthermore, CONTRACTOR shall be responsible for the Secondary Parties acts and satisfactory performance of the terms and conditions of this Agreement.
5. CONTRACTOR shall maintain books, records, documents and other evidence directly pertinent to all work under this Agreement in accordance with accepted professional practice and accounting procedures for a minimum period of 7 years after the end of each contract year. COUNTY, or any of its duly authorized representatives, shall have access to such books, records, documents (including electronically formatted materials), and other evidence for purposes of inspection, audit and copying, and compliance with COUNTY'S governmental obligations.
6. Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR or its subcontractor shall acquire and maintain during the term of this Agreement, insurance coverage, through and with an insurer acceptable to COUNTY, naming the COUNTY, any related agency governed by the Board of Supervisors and any of the member Cities or Towns of the Joint Powers Agreement or for whom the services under the contract are being provided, and COUNTY'S, or related agency's, officials, employees, and volunteers as additional insureds, (hereinafter referred to as "the insurance"). The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.
 - a.) Said policies shall be in effect for the duration of this Agreement and shall provide that they may not be canceled without first providing COUNTY with thirty (30) days written notice of such intended cancellation. If CONTRACTOR fails to maintain the insurance provided herein, COUNTY may secure such insurance and deduct the cost thereof from any funds owing to CONTRACTOR.
 - b.) Minimum Scope of Insurance. CONTRACTOR shall procure insurance covering general liability, automobile liability, and worker's compensation. Coverage shall be at least as broad as:
 - i. Insurance Services Office (ISO) Commercial General Liability Occurrence form number CG 0001 or equivalent ISO Form. A non-ISO form must be reviewed by the COUNTY prior to acceptance of the Agreement.
 - ii. Except as otherwise provided in (e)(ii)(bb) Insurance Services Office form number CA 0001 or equivalent ISO form covering Automobile Liability, Code 1 "any auto" and Endorsement CA 0029.

- iii. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

c.) Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

- i. General Liability and Vehicle Liability Coverages. The COUNTY and the public entity awarding the contract if other than the COUNTY, and their officials, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, leased or used by the CONTRACTOR; or vehicles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officials, employees or volunteers.

The CONTRACTOR'S insurance coverage shall be primary insurance as respects the COUNTY, its officials, employees and volunteers and any other insureds under this contract. Any insurance or self-insurance maintained by the COUNTY, its officials, employees and volunteers or other insureds, shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officials, employees and volunteers or other insureds under this contract. Coverage shall state that the CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- ii. Worker's Compensation and Employers Liability Coverage. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the COUNTY.

d.) Acceptability of Insurers. Liability Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII if admitted. A non-admitted insurer shall have a Best's rating of no less than A-X.

e.) Minimum Limits of Insurance. CONTRACTOR shall maintain limits no less than:

- i. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage with a general aggregate limit of \$5,000,000.
- ii. Vehicle Liability: Subject to the option and Agreement of the COUNTY either: (aa) \$1,000,000 combined single limit per accident for bodily injury or property damage or; (bb) Personal Automobile liability coverage of \$500,000 bodily injury and property damage.
- iii. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

f.) In addition to the above policies, if CONTRACTOR is to hire a subcontractor directly related to the provision of services under this Agreement, CONTRACTOR shall require subcontractor to provide reasonable insurance in addition to the coverage required under this Agreement, and shall require subcontractor to name CONTRACTOR as additional insured under its Agreement. Certificates of Insurance and original endorsements providing such coverage shall be provided to COUNTY under Paragraph 6 (h) of this Agreement.

g.) Deductibles and Self-Insured retentions. Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. At the option of the COUNTY either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the COUNTY, its officials and employees; or the CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- h.) Verification of Coverage. CONTRACTOR shall furnish the COUNTY with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the COUNTY or on forms received and approved by the COUNTY before work commences. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, at any time.
- i.) CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance and endorsement(s) to COUNTY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, COUNTY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to COUNTY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that thirty (30) days, or as soon as practical, prior to the expiration of any policy of insurance, CONTRACTOR will deliver to COUNTY a renewal or new policy to take the place of the policy expiring.
- j.) CONTRACTORS failure to maintain the insurance coverage required by this Agreement shall be a material breach of contract for the purposes of paragraph 12 (b.).

7. CONTRACTOR shall effectively protect and guard COUNTY or its related agencies and its officers, employees and volunteers, and all City/Town members of the Animal Services JPA (hereinafter collectively referred to as "COUNTY"), from any liability, including, but not limited to, damages, costs, expenses, attorney's fees, experts' fees, and witness costs that may be asserted or incurred by any person or entity, including the CONTRACTOR, third parties and/or the above referenced indemnitees (i.e. "COUNTY"), arising out of or in connection with CONTRACTOR'S performance hereunder, whether or not there is concurrent passive negligence on the part of the above-referenced indemnitees. CONTRACTOR shall indemnify, defend, and hold COUNTY harmless from any and all claims, suits, actions, costs, and liability, attorneys' fees, experts' fees, witness costs ensuing arising out of or in connection with: (i) the activities of CONTRACTOR in performing any work addressed in this Agreement, (ii) CONTRACTOR'S performance or non-performance under this Agreement, (iii) CONTRACTOR'S breaches of this Agreement, (iv) the COUNTY'S approval of this Agreement (except for any claims CONTRACTOR may have against the COUNTY for COUNTY'S breach of this Agreement), (v) the COUNTY'S compliance or non-compliance with any law applicable to the approval, processing and implementation of this Agreement and (vi) CONTRACTOR'S violation of any law, ordinance or regulation, whether or not there is concurrent, passive negligence on the part of the COUNTY and notwithstanding any limitation on the amount or type of damages or compensation payable by or for CONTRACTOR under worker's compensation, disability, or other employee benefit acts, the acceptance of insurance certificates required under this Agreement, or the terms, applicability, or limitations of any insurance held by CONTRACTOR. COUNTY shall not be responsible for any of the actions or inactions of CONTRACTOR pursuant to this Agreement.

8. CONTRACTOR shall maintain appropriate licenses to perform the services contemplated under this Agreement throughout the life of this Agreement. CONTRACTOR shall also obtain any and all permits which might be required by the work to be performed herein.

9. CONTRACTOR and/or any permitted subcontractor shall not unlawfully discriminate against or harass any individual including, but not limited to, any employee or volunteer of the County of Marin, based on race, color, religion, nationality, sex, sexual orientation, age, condition of disability, or any other protected class. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the anti-discrimination and anti- harassment mandates of all Federal, State and local statutes, regulations and ordinances.

10. If litigation or administrative hearings ensue which pertain to the subject matter of CONTRACTOR'S services hereunder, CONTRACTOR upon request agrees to testify.

11. CONTRACTOR warrants and covenants that CONTRACTOR presently has no interest in, nor shall any interest be hereinafter acquired in any matter which will render the services required under the provisions of this Agreement, a violation of any applicable state, local or federal law. CONTRACTOR further warrants that no officer or employee of the COUNTY has influenced or participated in a decision to award this contract which has or may confer on CONTRACTOR a benefit in which such employee or officer may have an interest, pecuniary or otherwise. In the event that any conflict of interest or violation of this section should nevertheless hereafter arise, CONTRACTOR shall promptly notify COUNTY of the existence of such conflict of interest or violation so that the COUNTY may determine whether to terminate this Agreement.

12. COUNTY or CONTRACTOR shall have the right to terminate this service at any time during the life of the contract by giving a (two-year) notice in writing of such termination to the other party. In the event either party gives notice of termination:

- a.) CONTRACTOR shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include handwriting, typewriting, printing, photocopying, photographing, and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, or symbols computer files, or combinations thereof.
 - b.) COUNTY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement and as determined by the per diem amounts specified in Paragraph A.5.2 of Exhibit A provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as, in the judgment of the COUNTY, is necessary to determine the reasonable value of the services rendered by CONTRACTOR.
 - c.) In the event CONTRACTOR exercises the right to terminate, the two year termination notice provision shall supersede the normal termination date of this Agreement. If the two year termination provision cannot be accommodated within the time period remaining under the Agreement, the parties agree that the term of this Agreement shall be extended until the end of the two year termination notice period. During that extended period of time, all the terms of the Agreement not in conflict with the extension of the Agreement shall remain unchanged, in full force and effect. The cost of the extended contract will be adjusted annually based upon the San Francisco Bay Area CPI-U.
13. This Agreement, together with its specific references, exhibits and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.
14. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.
15. If any term, covenant, condition or provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
16. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
17. In any action at law or in equity, including an action for declaratory relief, brought to enforce or interpret provisions of this Agreement, each party shall bear its own costs, including attorney's fees.
18. Unless otherwise expressly waived in writing by the parties hereto, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the COUNTY of Marin, State of California. This Agreement and all matters relating to it shall be governed by the law of the State of California.
19. Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the Government Code, are not waived by COUNTY and shall apply to any claim against COUNTY arising out of any acts or conduct under the terms and conditions of this Agreement.
20. If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation in accordance with its terms. If CONTRACTOR is a corporation, CONTRACTOR shall, within thirty (30) days after execution of this Agreement, deliver to COUNTY a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.
21. Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default. If the party in default does not cure the default within thirty (30) days of the date of notice, then such party shall be in default. The time to cure may be extended in the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.

22. This Agreement, at the option of COUNTY, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of CONTRACTOR.

23. COUNTY may terminate this Agreement in the event CONTRACTOR ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

24. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

25. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to included terms and as a complete and exclusive statement of the terms of the contract, pursuant to Code of Civil procedure section 1856. No modification of this contract shall be effective unless and until such modification is evidenced by a writing signed by the authorized representatives of the parties hereto.

If to COUNTY:

Office of County Administrator
County of Marin
3501 Civic Center Drive, Room 325
San Rafael, CA 94903

If to CONTRACTOR:

Marin Humane
Nancy McKenney, Chief Executive Officer
171 Bel Marin Keys Blvd.
Novato, CA 94949